



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



247807

REPLY TO THE ATTENTION OF

VIA FAX AND FIRST CLASS MAIL

August 30, 1999

4700

Lynn E. Delzell
Mayer, Brown & Platt
190 South Las Salle Street
Chicago, Illinois 60603-3411

Re: 316 E. Illinois Residual Off-Site Contamination

Dear Ms. Delzell:

As the counsel for a lender involved in the redevelopment of the property located at 316 E. Illinois Street, you have requested information regarding residual thorium contamination located in the adjacent rights-of-ways. EPA's June 6, 1996 Unilateral Administrative Order, in Section V, Paragraph 3 (Work to Be Performed), Subparagraph g., required Chicago Dock and Canal Trust (now River East L.L.C.) and Kerr McGee Corporation, to conduct off-site surveying and sampling and to implement the standards of 40 C.F.R. 192, if deemed necessary, beyond the current site boundaries. That requirement was based upon the underlying April 22, 1996 Action Memorandum that documented the need for a removal action at the site and proposed the off-site work. Nonetheless, this remaining contamination may not warrant further removal action provided there are means to ensure that health and safety precautions can be implemented to protect any person who may operate in the off-site right-of-ways.

In advance of the EPA's letter notifying River East and Kerr-McGee that the work required by the Unilateral Order has been completed, EPA plans to amend the April 22, 1996 Action Memorandum. The amendment will document that the Agency has evaluated the risk to human health and the environment posed by the offsite thorium residuals and has determined that it is not necessary to implement the standards of 40 C.F.R. 192, beyond the current site boundaries if the City and Kerr-McGee and River East enter into a binding Right-of-Way Agreement that runs with the land, is recorded at the Cook County Recorder of Deeds and contains the following conditions:

- 1) the City will limit access to the residual contamination; and
- 2) the City will notify all utilities and affected City departments of the contamination; and
- 3) the City will provide written notice to EPA that a permit to work in the right-of-way has been requested; and
- 4) the City will establish and maintain a database that will notify any party performing work in the rights-of-ways that it is required to conduct radiation surveillance, comply with a health and safety plan, and properly manage any thorium residuals exposed or disturbed in accordance with state and federal requirements.

I have reviewed the proposed Right-of-Way Agreement dated August 27, 1998 that was faxed to my office by Vincent S. Oleszkiewicz. With a few minor changes, notably the insertion of, in Section 4 b., following "This Agreement shall" the words "run with the land of the designated rights-of-way and shall" and, in Section 11, the insertion of "Lindsay Light II Site, Office of Regional Counsel" in the notice to U.S. EPA. Region 5, this Right-of-Way Agreement with its attachments should satisfy the Unilateral Order and underlying Action Memoranda. I believe the proposed Right-of-Way Agreement is an effective long-term means to ensure that anyone who may encounter the remaining radioactive material beneath the rights-of-ways adjacent to the site will have notice of its presence and will be required to take appropriate precautions. After this Right-of Way Agreement is executed and EPA has determined that all other requirements of the Unilateral Order have been met, then EPA will issue a Notice of Completion Letter to Kerr-McGee and River East.

I hope this answers your questions about how the proposed Right-of-Way agreement will satisfy the requirements of the Unilateral Order and underlying Action Memoranda. If you have any questions please call me.

Sincerely,



Mary L. Fulghum
Associate Regional Counsel

cc: Mort P. Ames
Richard Meserve
Vincent S. Oleszkiewicz
Jose De Leon